

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 367 be amended to read as follows:

- 1 Page 15, between lines 38 and 39, begin a new paragraph and insert:
- 2 "SECTION 18. IC 11-8-1-6.5 IS ADDED TO THE INDIANA
- 3 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2003]: **Sec. 6.5. "Constant supervision"**
- 5 **means the monitoring of a violent offender twenty-four (24) hours**
- 6 **each day.**
- 7 SECTION 19. IC 11-8-1-8.7 IS ADDED TO THE INDIANA CODE
- 8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 9 1, 2003]: **Sec. 8.7. "Flight risk" means a person who was placed on**
- 10 **parole for conviction of escape or attempted escape or failure to**
- 11 **return to lawful detention.**
- 12 SECTION 20. IC 11-8-1-8.9 IS ADDED TO THE INDIANA CODE
- 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 14 1, 2003]: **Sec. 8.9. (a) "Home" means:**
- 15 **(1) the interior living area of the temporary or permanent**
- 16 **residence of a person; or**
- 17 **(2) if a person's residence is a multiple family dwelling, the**
- 18 **unit in which the person resides, not including the:**
- 19 **(A) halls or common areas outside the unit where the**
- 20 **person resides; or**
- 21 **(B) other units, occupied or unoccupied, in the multiple**
- 22 **family dwelling.**
- 23 **(b) The term includes a hospital, health care facility, hospice,**
- 24 **group home, maternity home, residential treatment facility, and**

1 boarding house.

2 (c) The term does not include a public correctional facility or
3 the residence of another person who is not part of the social unit
4 formed by the person's immediate family.

5 SECTION 21. IC 11-8-1-8.8 IS ADDED TO THE INDIANA CODE
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2003]: Sec. 8.8. "Monitoring device" means an electronic device
8 that:

9 (1) is limited in capability to recording or transmitting
10 information regarding an offender's presence or absence from
11 the offender's home;

12 (2) is minimally intrusive upon the privacy of the offender or
13 other persons residing in the offender's home; and

14 (3) with the written consent of the offender and other persons
15 residing in the home at the time an order for home detention
16 is entered, may record or transmit:

17 (A) visual images;

18 (B) oral or wire communication or any auditory sound; or

19 (C) information regarding the offender's activities while
20 inside the offender's home.

21 SECTION 22. IC 11-8-1-11 IS ADDED TO THE INDIANA CODE
22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
23 1, 2003]: Sec. 11. "Security risk" means a person who is a threat to
24 the physical safety of the public.

25 SECTION 23. IC 11-8-1-12 IS ADDED TO THE INDIANA CODE
26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
27 1, 2003]: Sec. 12. "Violent offender" means a person who meets
28 either of the following conditions:

29 (1) Was placed on parole for conviction of any of the following
30 offenses or attempted offenses:

31 (A) Battery (IC 35-42-2-1).

32 (B) Domestic battery (IC 35-42-2-1.3).

33 (C) Arson (IC 35-43-1-1).

34 (D) Stalking (IC 35-45-10-5).

35 (E) Knowingly selling, manufacturing, purchasing, or
36 possessing a bomb or other container containing an
37 explosive or inflammable substance (IC 35-47-5-1).

38 (F) A crime identified as a "crime of violence" in
39 IC 35-50-1-2(a).

40 (2) Is a security risk, as determined under IC 11-13-9-2.

41 SECTION 24. IC 11-8-2-9 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The department
43 shall establish a program of research and statistics, alone or in
44 cooperation with others, for the purpose of assisting in the
45 identification and achievement of realistic short term and long term
46 departmental goals, the making of administrative decisions, and the
47 evaluation of the facilities and programs of the entire state correctional

system. Information relating to the following must be compiled:

(1) An inventory of current facilities and programs, including residential and nonresidential community programs and offender participation.

(2) Population characteristics and trends, including the following concerning offenders:

(A) Ethnicity.

(B) **Race.**

(C) Gender.

(D) Carrier (as defined in IC 16-18-2-49) status.

(3) Judicial sentencing practices.

(4) Service area resources, needs, and capabilities.

(5) Recidivism of offenders.

(6) Projected operating and capital expenditures.

(b) The department may conduct research into the causes, detection, and treatment of criminality and delinquency and disseminate the results of that research.

(c) Annually, within thirty (30) days after the close of the department's fiscal year, the department shall forward the information with respect to state operated community corrections programs compiled under subsection (a)(2) to the executive director of the legislative services agency.

SECTION 25. IC 11-12-1-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. A community corrections advisory board established under section 2 of this chapter shall compile information relating to the ethnicity, race, gender, and carrier (as defined in IC 16-18-2-49) status of persons described in section 2(2), 2(3), and 2(4) of this chapter who are served by community corrections programs coordinated or operated by the board. The board shall forward this information annually, within thirty (30) days after the close of the board's fiscal year, to the executive director of the legislative services agency.**

SECTION 26. IC 11-12-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. For the purpose of encouraging counties to develop a coordinated local corrections-criminal justice system, ~~and~~ providing effective alternatives to imprisonment at the state level, **and reintegrating offenders into the community**, the commissioner shall, out of funds appropriated for such purposes, make grants to counties for the establishment and operation of community corrections programs. Appropriations intended for this purpose may not be used by the department for any other purpose. Money appropriated to the department of correction for the purpose of making grants under this chapter, and charges made against a county under section 9, do not revert to the general fund at the close of any fiscal year, but remain available to the department of correction

for its use in making grants under this chapter."

Page 17, between lines 27 and 28, begin a new paragraph and insert:
 "SECTION 19. IC 11-13-9 IS ADDED TO THE INDIANA CODE
 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2003]:

**Chapter 9. Violent Offenders and Flight Risks on Home
 Detention as a Condition of Parole**

Sec. 1. This chapter applies to an offender who has been placed
 on parole under IC 11-13-3 or IC 35-50-6-1.

Sec. 2. (a) The department of correction shall establish written
 criteria and procedures for determining whether an offender is a
 flight risk (as defined in IC 11-8-1-8.7) or a violent offender (as
 defined in IC 11-8-1-12).

(b) The department of correction shall use the criteria and
 procedures established under subsection (a) to establish a record
 keeping system that allows the department of correction to quickly
 determine whether an offender placed on home detention as a
 condition of parole is a flight risk or a violent offender.

Sec. 3. The department of correction shall provide all law
 enforcement agencies having jurisdiction in the place where the
 offender's home detention is located with a list that includes the
 following information:

- (1)** The offender's name, any known aliases, and the location
 of the offender's home detention.
- (2)** The crime for which the offender was convicted and
 placed on parole.
- (3)** The date the offender's home detention expires.
- (4)** The name, address, and telephone number of the parole
 officer supervising the offender on home detention.
- (5)** An indication of whether the offender is a flight risk or a
 violent offender.
- (6)** A photograph of the offender.

Sec. 4. Except for absences from the offender's home for reasons
 set forth in IC 35-38-2.5-6(1), the department of correction shall,
 at the beginning of a period of home detention, set the monitoring
 device and surveillance equipment to minimize the possibility that
 an offender can enter another residence or structure without a
 violation.

Sec. 5. (a) A contract agency described in subsection (b) or the
 department of correction shall immediately contact a local law
 enforcement agency described in section 3 of this chapter upon
 determining that a violent offender is violating a condition of home
 detention.

(b) The department of correction shall use a monitoring device
 and surveillance equipment to maintain constant supervision of the
 violent offender. The department of correction may do this by:

- (1)** using its own equipment and personnel; or

(2) contracting with an outside entity."

Page 18, between lines 17 and 18, begin a new paragraph and insert:
**"SECTION 20. IC 35-33-8.7 IS ADDED TO THE INDIANA CODE
 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2003]:**

Chapter 8.7. Pre-Trial Release and Home Detention

Sec. 1. As used in this chapter, "constant supervision" means the monitoring of a violent offender twenty-four (24) hours each day by means described in section 8 of this chapter.

Sec. 2. As used in this chapter, "flight risk" means a person who is charged with escape or attempted escape or failure to return to lawful detention.

Sec. 3. (a) As used in this chapter, "home" means:

(1) the interior living area of the temporary or permanent residence of a person; or

(2) if a person's residence is a multiple family dwelling, the unit in which the person resides, not including the:

(A) halls or common areas outside the unit where the person resides; or

(B) other units, occupied or unoccupied, in the multiple family dwelling.

(b) The term includes a hospital, health care facility, hospice, group home, maternity home, residential treatment facility, and boarding house.

(c) The term does not include a public correctional facility or the residence of another person who is not part of the social unit formed by the person's immediate family.

Sec. 4. "Monitoring device" means an electronic device that:

(1) is limited in capability to recording or transmitting information regarding an offender's presence or absence from the offender's home;

(2) is minimally intrusive upon the privacy of the offender or other persons residing in the offender's home; and

(3) with the written consent of the offender and other persons residing in the home at the time an order for home detention is entered, may record or transmit:

(A) visual images;

(B) oral or wire communication or any auditory sound; or

(C) information regarding the offender's activities while inside the offender's home.

Sec. 5. As used in this chapter, "security risk" means a person who is a threat to the physical safety of the public.

Sec. 6. As used in this chapter, "violent offender" means a person who meets either of the following conditions:

(1) Is charged with one (1) of the following offenses or attempted offenses:

(A) Battery (IC 35-42-2-1).

(B) Domestic battery (IC 35-42-2-1.3).

(C) Arson (IC 35-43-1-1).

(D) Stalking (IC 35-45-10-5).

(E) Knowingly selling, manufacturing, purchasing, or possessing a bomb or other container containing an explosive or inflammable substance (IC 35-47-5-1).

(F) A crime identified as a "crime of violence" in IC 35-50-1-2(a).

(2) Is a security risk.

Sec. 7. (a) If a person resides in a county other than the county in which the court has jurisdiction, the court may not place the person on home detention as a condition of pre-trial release unless:

(1) the person is eligible for home detention as a condition of pre-trial release in the county in which the person resides; and

(2) supervision of the offender will be conducted by the county in which the person resides.

(b) If a person is:

(1) serving home detention in a county that operates a home detention program; and

(2) being supervised by a probation department or community corrections program located in a county other than the county in which the court has jurisdiction;

the court may order that supervision of the person be transferred to the county where the person resides if the person remains on home detention in the other county.

(c) All home detention fees shall be collected by the county that supervises the offender.

Sec. 8. (a) Each probation department or community corrections department shall establish written criteria and procedures for determining whether a person placed on home detention as a condition of pre-trial release qualifies as a flight risk or a violent offender.

(b) A probation department or community corrections department shall use the criteria and procedures established under subsection (a) to establish a record keeping system that allows the department to quickly determine whether an offender placed on home detention as a condition of pre-trial release is a flight risk or a violent offender.

(c) A probation department or community corrections department charged by a court with supervision of a flight risk or a violent offender placed on home detention as a condition of pre-trial release shall provide all law enforcement agencies having jurisdiction in the place where the probation department or community corrections department is located with information on the flight risk or the violent offender supervised by the probation department or community corrections department. The

information must include the following:

- (1) The offender's name, any known aliases, and the location of the person's home detention.
- (2) The crime with which the offender is charged.
- (3) The name, address, and telephone number of the offender's supervising probation or community corrections officer for pre-trial home detention.
- (4) An indication of whether the offender is a flight risk or a violent offender.
- (5) A photograph of the offender.

(d) Except for absences from the offender's home for reasons set forth in IC 35-38-2.5-6(1), a probation department or community corrections department charged by a court with supervision of an offender placed on home detention as a condition of pre-trial release shall set the monitoring device and surveillance equipment to minimize the possibility that the offender can enter another residence or structure without a violation.

Sec. 9. (a) A contract agency described in subsection (b) or a probation department or community corrections department charged by a court with supervision of a flight risk or a violent offender placed on home detention under this chapter shall immediately contact a local law enforcement agency upon determining that a flight risk or a violent offender is violating a condition of home detention.

(b) A probation department or community corrections department charged by a court with supervision of a flight risk or a violent offender placed on home detention under this chapter shall use a monitoring device and surveillance equipment to maintain constant supervision of the flight risk or the violent offender. The supervising entity may do this by:

- (1) using the supervising entity's equipment and personnel; or
- (2) contracting with an outside entity."

Page 21, between lines 3 and 4, begin a new paragraph and insert:
 "SECTION 24. IC 35-38-2.5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.5. As used in this chapter, "flight risk" means a person who is convicted of escape or attempted escape or failure to return to lawful detention.

SECTION 25. IC 35-38-2.5-4.5, AS ADDED BY P.L.137-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. As used in this chapter, "security risk" means a person who is

- (1) a flight risk; or
- (2) a threat to the physical safety of the public.

SECTION 26. IC 35-38-2.5-4.7, AS ADDED BY P.L.137-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.7. As used in this chapter, "violent offender"

1 means a person who is:

- 2 (1) convicted of an offense or attempted offense, except for an
 3 offense under IC 35-42-4 or IC 35-46-1-3, under IC 35-50-1-2(a),
 4 IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1, ~~IC 35-44-3-5,~~
 5 IC 35-45-10-5, or IC 35-47-5-1; **or**
 6 ~~(2) charged with an offense or attempted offense listed in~~
 7 ~~IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1,~~
 8 ~~IC 35-44-3-5, IC 35-45-10-5, or IC 35-47-5-1; or~~
 9 ~~(3) (2) a security risk as determined under section 10 of this~~
 10 chapter.

11 SECTION 27. IC 35-38-2.5-10, AS AMENDED BY P.L.137-2001,
 12 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2003]: Sec. 10. (a) Each probation department or community
 14 corrections department shall establish written criteria and procedures
 15 for determining whether an offender ~~or alleged offender~~ that the
 16 department supervises on home detention qualifies as a **flight risk or**
 17 **a violent offender**.

18 (b) A probation or community corrections department shall use the
 19 criteria and procedures established under subsection (a) to establish a
 20 record keeping system that allows the department to quickly determine
 21 whether an offender ~~or alleged offender~~ who violates the terms of a
 22 home detention order is a **flight risk or a violent offender**.

23 (c) A probation department or a community corrections program
 24 charged by a court with supervision of ~~offenders and alleged offenders~~
 25 **an offender** ordered to undergo home detention shall provide all law
 26 enforcement agencies ~~(including any contract agencies)~~ having
 27 jurisdiction in the place where the probation department or a
 28 community corrections program is located with a list of offenders ~~and~~
 29 ~~alleged offenders~~ under home detention supervised by the probation
 30 department or the community corrections program. The list must
 31 include the following information about each offender: ~~and alleged~~
 32 ~~offender:~~

- 33 (1) The offender's name, any known aliases, and the location of
 34 the offender's home detention.
 35 (2) The crime for which the offender was convicted.
 36 (3) The date the offender's home detention expires.
 37 (4) The name, address, and telephone number of the offender's
 38 supervising probation or community corrections program officer
 39 for home detention.
 40 (5) An indication of whether the offender ~~or alleged offender~~ is a
 41 **flight risk or a violent offender**.
 42 (6) **A photograph of the offender.**

43 (d) Except **for the offender's absences from the offender's home**
 44 as provided under section 6(1) of this chapter, a probation department
 45 or community corrections program charged by a court with supervision
 46 of ~~offenders and alleged offenders~~ **an offender** ordered to undergo

home detention shall, at the beginning of a period of home detention, set the monitoring device and surveillance equipment to minimize the possibility that the offender ~~or alleged offender~~ can enter another residence or structure without a violation.

SECTION 28. IC 35-38-2.5-12, AS ADDED BY P.L.137-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A **contracting entity described in subsection (b)**, probation department, or community corrections program charged by a court with supervision of a **flight risk or a** violent offender placed on home detention under this chapter shall cause a local law enforcement agency ~~or contract agency~~ described in section 10 of this chapter to be the initial agency contacted upon determining that the **flight risk or the** violent offender is in violation of a court order for home detention.

(b) A probation department or community corrections program charged by a court with supervision of a **flight risk or a** violent offender placed on home detention under this chapter shall maintain constant supervision of the **flight risk or the** violent offender using a monitoring device and surveillance equipment. The supervising entity may do this by:

- (1) using the supervising entity's equipment and personnel; or
- (2) contracting with an outside entity.

SECTION 29. IC 35-38-2.6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, "community corrections program" means a program consisting of residential and work release, electronic monitoring, day treatment, ~~or~~ day reporting, **or a service to reintegrate offenders into the community** that is:

- (1) operated under a community corrections plan of a county and funded at least in part by the state subsidy provided under IC 11-12-2; or
- (2) operated by or under contract with a court or county."

Page 22, between lines 30 and 31, begin a new paragraph and insert: "SECTION 25. IC 35-44-3-5, AS AMENDED BY P.L.137-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A person, except as provided in subsection (b), who intentionally flees from lawful detention commits escape, a Class C felony. However, the offense is a Class B felony if, while committing it, the person draws or uses a deadly weapon or inflicts bodily injury on another person.

(b) A person who knowingly or ~~intentionally violates a home detention order or~~ intentionally removes an electronic monitoring device commits escape, a Class D felony.

(c) A person who knowingly or intentionally fails to return to lawful detention following temporary leave granted for a specified purpose or limited period commits failure to return to lawful detention, a Class D

1 felony. However, the offense is a Class C felony if, while committing
2 it, the person draws or uses a deadly weapon or inflicts bodily injury on
3 another person."

4 Renumber all SECTIONS consecutively.
(Reference is to ESB 367 as printed February 22, 2002.)

Representative Reske